

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 15032US02)**

<p>In the Application of:</p> <p style="text-align:center">Jeyhan Karaoguz</p> <p>Serial № 10/672,648</p> <p>Filed: September 26, 2003</p> <p>THIRD-PARTY ACCESS AND CONTROL OF MEDIA PERIPHERALS ON A MEDIA EXCHANGE NETWORK</p> <p>Examiner: Kevin T. Bates</p> <p>Group Art Unit: 2456</p> <p>Confirmation № 8226</p>	<p>Electronically filed on September 21, 2011</p>
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APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated March 25, 2011 (“Final Office Action”), in which claims 1-14 and 36-55 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences (“Board”) reverses the final rejection of claims 1-14 and 36-55 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on September 21, 2011 accompanied by the fee for a (1) one month extension of time.

REAL PARTY IN INTEREST

(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014244, Frame 0507 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES

(37 C.F.R. § 41.37(c)(1)(ii))

The Appellant is unaware of any related appeals or interferences.

STATUS OF THE CLAIMS

(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-14 and 36-55, all of which stand rejected under 35 U.S.C. § 103(a). *See* the Final Office Action at page 3. Claims 15-35 were previously canceled. The Appellant identifies claims 1-14 and 36-55 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS

(37 C.F.R. § 41.37(c)(1)(iv))

The Appellant has not amended any claims subsequent to the final rejection of claims 1-14 and 36-55 mailed on February 16, 2011.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent Claim 1

Claim 1 recites, “[a] method to indirectly control at least one media peripheral via a communication network, the method comprising: creating a user-defined schedule of media stored at a first location using a television at the first location.”

For example, “[e]ach media channel may correspond to a schedule 604 showing, for example, a week 605 and a year 606,”¹ and “[i]n the case of an MPS configuration, the user takes advantage of his remote control and TV screen to use the media exchange network.”²

Claim 1 also recites, “pushing media from the first location to the at least one media peripheral at a second location according to the user-defined schedule of media created at the first location.”

For example, “[i]n an embodiment of the present invention, a media exchange network is provided that enables many types of digital media, data, and/or services to be stored, indexed, viewed, searched for, pushed from one user to another, and requested by users, using a media guide user interface.”³

Claim 1 also recites, “constructing, at the first location, one or more media channels from user selected and scheduled media content; and communicating in a peer-to-peer manner the one or more media channels from the first location to the second location via a closed and secure communication.”

For example, “[t]he media exchange network allows users to effectively become their own broadcasters from their own homes by creating their own media channels and pushing those media channels to other authorized users on the media exchange network, such as friends and family members.”⁴

Claims 2-14 are dependent upon claim 1.

¹ Specification; page 34; lines 10-11.

² Specification; page 29; lines 3-4.

³ Specification; page 28; lines 1-4.

⁴ Specification; page 29; lines 14-17.

Independent claim 36

Claim 36 recites, “[o]ne or more circuits for a media processing system supporting indirect control of at least one media peripheral via a communication network, the one or more circuits comprising: one or more processors communicatively coupled to the communication network, the one or more processors operable to, at least: create a user-defined schedule of media stored at a first geographic location using a television at the first geographic location.”

For example, “[e]ach media channel may correspond to a schedule 604 showing, for example, a week 605 and a year 606,”⁵ and “[i]n the case of an MPS configuration, the user takes advantage of his remote control and TV screen to use the media exchange network.”⁶

Claim 36 also recites, “the one or more processors operable to... push media from the first geographic location to the at least one media peripheral at the second geographic location according to the user-defined schedule of media created at the first geographic location.”

For example, “[i]n an embodiment of the present invention, a media exchange network is provided that enables many types of digital media, data, and/or services to be stored, indexed, viewed, searched for, pushed from one user to another, and requested by users, using a media guide user interface.”⁷

Claim 36 also recites, “the one or more processors operable to... construct, at the first geographic location, one or more media channels from user selected and scheduled media content; and communicate in a peer-to-peer manner the one or more media channels from the first geographic location to the second geographic location via a closed and secure communication.”

For example, “[t]he media exchange network allows users to effectively become their own broadcasters from their own homes by creating their own media channels and pushing those media channels to other authorized users on the media exchange network, such as friends and family members.”⁸

Claims 37-55 are dependent upon claim 36.

⁵ Specification; page 34; lines 10-11.

⁶ Specification; page 29; lines 3-4.

⁷ Specification; page 28; lines 1-4.

⁸ Specification; page 29; lines 14-17.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

Claims 1-10, 12-14, 36-45 and 47-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (2005/0028208) (hereinafter "Ellis '208") in view of Ellis (6,774,926) (hereinafter "Ellis '926") and in further view of common knowledge in the art.

Claims 11 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis '208 in view of Ellis '926 and Examiner's "Official Notice", and in further view of Daum (6,665,384).

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

In the Final Office Action, claims 1-14 and 36-55 stand rejected under 35 U.S.C. § 103(a).

I. Independent Claim 1 and all claims depending therefrom

Claim 1 comprises “the user-defined schedule of media” that is “created at the first location,” and “the user-defined schedule of media” is associated with the antecedent, “a user-defined schedule of media stored at a first location.” Thus, claim 1 requires that the “media” is “stored at a first location.” Claim 1 also requires “pushing media from the first location to the at least one media peripheral.”

In the *Response to Arguments*, the Examiner’s states, “Ellis ‘208 teaches that a first set-top-box can be used to schedule media and restriction channels and have those settings transferred to other geographic locations in a house.”⁹ Thus, the Examiner is assuming that the “first location” in claim 1 is the set-top-box in Ellis ‘208 and alleges that “the user-defined schedule of media” in claim 1 is created at the set-top-box in Ellis ‘208. While the Examiner alleges that Ellis ‘208 teaches the transferring of schedule “settings,” the Examiner fails to show how Ellis ‘208 teaches “pushing media from the first location to the at least one media peripheral.”

Ellis ‘208 does not teach: 1) “pushing media from the first location to the at least one media peripheral at a second location according to the user-defined schedule of media created at the first location”; 2) “constructing, at the first location, one or more media channels from user selected and scheduled media content”; and 3) “communicating in a peer-to-peer manner the one or more media channels from the first location to the second location via a closed and secure communication.”

⁹ Final Office Action mailed March 25, 2011; page 4.

The Examiner implicitly acknowledges the shortcoming of Ellis '208 and alleges that all element of claim 1 are taught by Ellis '926. In an attempt to overcome the acknowledged deficiencies Ellis '208 with respect to claim 1, the Examiner cites Ellis '926 and states:

Ellis '926 teaches a personal television channel system that teaches creating a schedule of media (Col. 3, lines 19 - 29) using among other things, a media peripheral (Col. 1, lines 47 - 52) where that playlist and all media can be available to be pushed to many locations and devices including being transmitted in a peer-to-peer system for receipt at a geographically remote media peripheral (Col. 7, lines 27 - 37; 49 - 57).¹⁰

Since the Examiner does not allege that the set-top-box in Ellis '208 is "pushing media... to the at least one media peripheral" as required in claim 1, the Examiner fails to identify at least one "media peripheral" in Ellis '208. Therefore, all of the Examiner's citations to Ellis '208, with respect to claims depending from claim 1, lack an antecedent basis for assuming a "media peripheral" in Ellis '208.

Claim 1 recites, "communicating in a peer-to-peer manner the one or more media channels from the first location to the second location via a closed and secure communication." The Examiner admits that Ellis '208 and Ellis '926 fail to teach "communicating... via a closed and secure communication." In an attempt to overcome this deficiency, the Office Action states:

The examiner takes further "official notice" that communication streams sent over the Internet is able to be sent over a secure connection. It would have been obvious to one of ordinary skill in the art the time the invention was made to use the well known teaching of secure connections to improve Ellis '208's system. One would do so to protect the system against malicious or other harmful commands and users from affecting the use and enjoyment of the system over a public communication.¹¹

The applicant's traversal of the examiner's official notice is inadequate and the factual statement of "communication streams sent over the Internet is able to be sent over a secure connection" is taken to be **admitted prior art**.¹²

¹⁰ Final Office Action mailed March 25, 2011; pages 9.

¹¹ Final Office Action mailed March 25, 2011; pages 9-10.

¹² Final Office Action mailed March 25, 2011; pages 7.

However, the Examiner fails to cite a “closed communication.” The Examiner’s assertion about the Internet does not state that the Internet is “closed communication.” Moreover, the Examiner’s assertion relies on “the use and enjoyment of the system over a public communication.” A “closed communication” is not a “public communication.”

Thus, for at least these reasons, the Appellant respectfully requests reconsideration of the rejection to claim 1 and all claims depending from claim 1.

II. Dependent Claim 54 and all claims depending therefrom

Claim 54 depends from independent claim 1. Therefore, the Appellant submits that claim 54 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also submits that Ellis ‘208 in combination with Ellis ‘926 fails to disclose or suggest at least the limitations of “selecting, using the television at the first location, an operation of the at least one media peripheral” and “requesting performance of the selected operation on the at least one media peripheral using the television at the first location,” as recited by the Appellant in claim 54 as applied to claim 1.

As shown above, the Examiner does not even allege that the “media peripheral” in claim 1 is taught by Ellis ‘208. The Examiner does allege that the “media peripheral” in claim 1 is taught by Ellis ‘926. However, the Examiner fails to show where the aforementioned limitations of claim 54 can be found in Ellis ‘926, and the Examiner fails how it is obvious to combine Ellis ‘208 and Ellis ‘926 with respect to the limitations of claim 54.

Thus, for at least these reasons, the Appellant respectfully requests reconsideration of the rejection to claim 54 and all claims depending from claim 54.

III. Dependent Claim 5

Claim 5 depends from claim 54. Therefore, the Appellant submits that claim 5 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1 and claim 54.

Claim 54 comprises “selecting... an operation of the at least one media peripheral,” and the Examiner only cites Ellis ‘208. However, the Examiner fails to identify at least one “media peripheral” in Ellis ‘208 and fails to show where the limitations of claim 5 can be found in Ellis ‘926. Moreover, the Examiner fails how it is obvious to combine Ellis ‘208 and Ellis ‘926 with respect to the limitations of claims.

Claim 5 as applied to claim 54 requires “selecting... an operation” wherein the operation comprises one of:

- powering said media peripheral on or off;
- scanning said media peripheral in angle about at least one axis of rotation;
- transferring stored media from the media peripheral to the first system;
- transferring stored media from the first system to the media peripheral;
- transferring software from the first system to the media peripheral;
- transferring status information from the media peripheral to the first system;
- initiating a test of the media peripheral;
- initiating a trick mode of the media peripheral;
- determining whether the media peripheral is within communication range of the second system;
- putting the media peripheral into a sleep state; and
- changing a parameter of the media peripheral.

However, the Examiner alleges that ONLY ONE of the operations in claim 5 is found in Ellis ‘208.¹³ The Examiner fails to cite another source for teaching the admitted deficiencies of claim 5.

Thus, for at least these reasons, the Appellant respectfully requests reconsideration of the rejection to claim 5.

¹³ Final Office Action mailed March 25, 2011; page 7.

IV. Claim 36 and all claims depending therefrom

Claims 1 and 36 are rejected based on the same art and the same arguments. Therefore, the Appellant respectfully submits that claim 36 and all claims depending from claim 36 are also allowable over the cited art, for at least some of the reasons set forth above with respect to claim 1.

Claims 54 and 55 are rejected based on the same art and the same arguments. Therefore, the Appellant respectfully submits that claim 55 and all claims depending from claim 55 are also allowable over the cited art, for at least some of the reasons set forth above respect to claim 54.

Claims 5 and 40 are rejected based on the same art and the same arguments. Therefore, the Appellant respectfully submits that claim 40 is also allowable over the cited art, for at least some of the reasons set forth above respect to claim 5.

CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-14 and 36-55 are in condition for allowance. Accordingly, the Appellant respectfully requests that the rejection of claims 1-14 and 36-55 under 35 U.S.C. §103(a) be reconsidered and withdrawn. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: September 21, 2011

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

Claim 1. A method to indirectly control at least one media peripheral via a communication network, the method comprising:

creating a user-defined schedule of media stored at a first location using a television at the first location;

pushing media from the first location to the at least one media peripheral at a second location according to the user-defined schedule of media created at the first location;

constructing, at the first location, one or more media channels from user selected and scheduled media content; and

communicating in a peer-to-peer manner the one or more media channels from the first location to the second location via a closed and secure communication.

Claim 2. The method of claim 1 wherein the at least one media peripheral comprises one or more of a digital camera, a personal computer, a digital camcorder, a MP3 player, a mobile multi-media gateway, a home juke-box, and/or a personal digital assistant.

Claim 3. The method of claim 1 wherein the at least one media peripheral comprises a processor running media capture software and/or media player software.

Claim 4. The method of claim 54 wherein the communication link is established via one or both of a wired connection and/or a wireless connection.

Claim 5. The method of claim 54 wherein the operation comprises one of:

powering said media peripheral on or off;

scanning said media peripheral in angle about at least one axis of rotation;

transferring stored media from the media peripheral to the first system;

transferring stored media from the first system to the media peripheral;

transferring software from the first system to the media peripheral;
transferring status information from the media peripheral to the first system;
initiating a test of the media peripheral;
initiating a trick mode of the media peripheral;
determining whether the media peripheral is within communication range of the second system;
putting the media peripheral into a sleep state; or
changing a parameter of the media peripheral.

Claim 6. The method of claim 54 wherein one or both of the first system and/or the second system comprises a set-top-box based media processing system.

Claim 7. The method of claim 54 wherein one or both of the first system and/or the second system comprises a personal computer based media processing system.

Claim 8. The method of claim 54 wherein one or both of the first system and/or the second system comprises an integrated element of a television based media processing system.

Claim 9. The method of claim 54 wherein the first system comprises a server of a media provider.

Claim 10. The method of claim 54 wherein the first system comprises a server of a service provider.

Claim 11. The method of claim 54 wherein the first system comprises a server of a peripheral manufacturer.

Claim 12. The method of claim 54 wherein the establishing the communication link is initiated by the first system.

Claim 13. The method of claim 54 wherein the establishing the communication link is initiated via a telephone call.

Claim 14. The method of claim 54 wherein the establishing the communication link is initiated via a web site.

Claim 36. One or more circuits for a media processing system supporting indirect control of at least one media peripheral via a communication network, the one or more circuits comprising:

- one or more processors communicatively coupled to the communication network, the one or more processors operable to, at least:

- create a user-defined schedule of media stored at a first geographic location using a television at the first geographic location;

- push media from the first geographic location to the at least one media peripheral at the second geographic location according to the user-defined schedule of media created at the first geographic location;

- construct, at the first geographic location, one or more media channels from user selected and scheduled media content; and

- communicate in a peer-to-peer manner the one or more media channels from the first geographic location to the second geographic location via a closed and secure communication.

Claim 37. The one or more circuits of claim 36 wherein the at least one media peripheral comprises one or more of a digital camera, a personal computer, a digital camcorder, a MP3 player, a mobile multi-media gateway, a home juke-box, and/or a personal digital assistant.

Claim 38. The one or more circuits of claim 36 wherein the at least one media peripheral comprises a processor running media capture software and/or media player software.

Claim 39. The one or more circuits of claim 55 wherein the communication link is established via one or both of a wired connection and/or a wireless connection.

Claim 40. The one or more circuits of claim 55 wherein the operation comprises one of:

- powering said media peripheral on or off;
- scanning said media peripheral in angle about at least one axis of rotation;
- transferring stored media from the media peripheral to the first system;
- transferring stored media from the first system to the media peripheral;
- transferring software from the first system to the media peripheral;
- transferring status information from the media peripheral to the first system;
- initiating a test of the media peripheral;
- initiating a trick mode of the media peripheral;
- determining whether the media peripheral is within communication range of the second system;
- putting the media peripheral into a sleep state; or
- changing a parameter of the media peripheral.

Claim 41. The one or more circuits of claim 55 wherein one or both of the first system and/or the second system comprises a set-top-box based media processing system.

Claim 42. The one or more circuits of claim 55 wherein one or both of the first system and/or the second system comprises a personal computer based media processing system.

Claim 43. The one or more circuits of claim 55 wherein one or both of the first system and/or the second system comprises an integrated element of a television based media processing system.

Claim 44. The one or more circuits of claim 55 wherein the first system comprises a server of a media provider.

Claim 45. The one or more circuits of claim 55 wherein the first system comprises a server of a service provider.

Claim 46. The one or more circuits of claim 55 wherein the first system comprises a server of a peripheral manufacturer.

Claim 47. The one or more circuits of claim 55 wherein the establishing the communication link is initiated by the first system.

Claim 48. The one or more circuits of claim 55 wherein the establishing the communication link is initiated via a telephone call.

Claim 49. The one or more circuits of claim 55 wherein the establishing the communication link is initiated via a web site.

Claim 50. The one or more circuits of claim 36 wherein the first geographic location is a first home and the second geographic location is a second home.

Claim 51. The one or more circuits of claim 36 wherein the user-defined schedule of media comprises a plurality of media content scheduled according to date and time.

Claim 52. The method of claim 1 wherein the first location is a first a home and the second location is a second home.

Claim 53. The method of claim 1 wherein the user-defined schedule of media comprises a plurality of media content scheduled according to date and time.

Claim 54. The method of claim 1, further comprising:

identifying by a first system comprising the television, at the first location, the at least one media peripheral communicatively coupled to a second system, at the second location, wherein the first and second locations are geographically separate and distinct from one another;

automatically establishing a communication link between the first system comprising the television and the at least one media peripheral;

selecting, using the television at the first location, an operation of the at least one media peripheral;

requesting performance of the selected operation on the at least one media peripheral using the television at the first location;

automatically determining authorization of the performance of the selected operation;

performing the selected operation on the at least one media peripheral if the authorization is successful; and

not performing the selected operation on the at least one media peripheral if the authorization is not successful.

Claim 55. The one or more circuits of claim 35, wherein the one or more processors are also operable to at least:

identify, from a first system comprising the television at the first geographic location, the at least one media peripheral communicatively coupled to a second system, at the second geographic location, wherein the first and second geographic locations are separate and distinct from one another;

automatically establish a communication link between the first system and the at least one media peripheral;

select, using the television at the first geographic location, an operation of the at least one media peripheral;

request performance of the selected operation on the at least one media peripheral;

automatically determine authorization of the performance of the selected operation;

perform the selected operation using the television at the first geographic location on the at least one media peripheral if the authorization is successful; and

not perform the selected operation on the at least one media peripheral if the authorization is not successful;

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) United States Publication No. 2005/0028208 (“Ellis ‘208”), entered into record by the Examiner in the July 15, 2008 Office Action.
- (2) United States Patent No. 6,665,384 (“Daum”), entered into record by the Examiner in the July 15, 2008 Office Action.
- (3) United States Patent No. 6,774,926 (“Ellis ‘926”), entered into record by the Examiner in the August 5, 2010 Office Action.

RELATED PROCEEDINGS APPENDIX

(37 C.F.R. § 41.37(c)(1)(x))

The Appellant is unaware of any related appeals or interferences.